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E.O.12065: XDS-4 11/03/00 (GLEYSTEEN, W. E.) OR-M
TAGS: PINS, SHUM, KS
SUBJECT: KWANGJU VERDICTS
REF: (A) STATE 287149, (B) SEOUL 14300
1. (C) ENTIRE TEXT.
2. SUMMARY AND COMMENT: EMBOFF VISITED KWANGJU OCTOBER 30-31 TO SEEK INFORMATION ON THE KWANGJU TRIALS (REF A). A TEAM OF GOVERNMENT BRIEFERS PROVIDED A LENGTHY EXPLANATION OF ALL LEGAL ACTIONS RESULTING FROM THE KWANGJU RIOTS. IT ASSERTED THAT CHONG TONG-NYON WAS THE "RINGLEADER" OF THE UPRISING AND PAL WORKED CLOSELY WITH KIM DAE JUNG TO OVERTHROW THE GOVERNMENT BY VIOLENCE. TWO OTHER DEFENDANTS WHO RECEIVED THE DEATH PENALTY WERE ALSO CONVICTED ON ESSENTIALLY POLITICAL CHARGES, AS WAS A LAWYER WHO RECEIVED A LIFE TERM. OTHERS, INCLUDING TWO SENTENCED TO DEATH, WERE CONVICTED OF CRIMINAL ACTS SUCH AS MURDER AND LOOTING. THE BRIEFERS ASSERTED THAT THE TRIALS WERE OPEN, THE PRESS WAS ALLOWED TO COVER THE PROCEEDINGS (THE DECISION NOT TO PERMIT ANY STORIES WAS THE MEDIA'S), AND THAT LEGAL REPRESENTATION FOR THE DEFENDANTS WAS ADEQUATE.

THE TRIALS WERE NOT SECRET PROCEEDINGS. THE GOVERNMENT CLAIMS, WITH SOME JUSTIFICATION, THAT IT TRIED TO BE LENIENT WITH DEFENDANTS AS A GROUP--LESS THEN 10 PERCENT OF THOSE ARRESTED REMAIN INCARCERATED AND MOST OF THESE HAVE GOTTEN SENTENCES OF LESS THAN 5 YEARS.

EMBASSY'S ASSESSMENT OF INTERACTION OF THIS TRIAL WITH KIM DAE JUNG'S (PARA 5 REFTEL) WILL FOLLOW SEPTEL. END SUMMARY.
3. AN EMBASSY OFFICER VISITED KWANGJU OCTOBER 30-31 TO SEEK INFORMATION ON THE RECENTLY COMPLETED KWANGJU

DEPARTMENT OF STATE A/CDC/MR
REVIEWED BY H. Teeph DATE 8/18/82
PORTIONS DENIED AS INDICATED

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TRIALS (REFTEL). HE WAS PROVIDED A 3-HOUR BRIEFING BY THE CHIEF PROSECUTOR AND A LEGAL OFFICER. ALSO PRESENT WERE A LIEUTENANT COLONEL IN THE JUDGE ADVOCATE'S OFFICE AND A CAPTAIN WHO HAD BEEN PART OF THE PROSECUTION TEAM DURING KIM DAE JUNG'S (M-R: KIM TAE-CHUNG) TRIAL IN SEOUL.

4. THE BRIEFING TEAM SAID THAT 2,522 PEOPLE WERE ARRESTED AS A RESULT OF THE KWANGJU DISTURBANCES. MOST WERE FREED WITH A REPRIMAND OR A COMMUTED SENTENCE, AND ONLY 193 REMAIN IN JAIL (THE FIGURE OF 175 USED BY THE PRESS--AND THE EMBASSY--IN EARLY REPORTS APPARENTLY INCLUDED ONLY ONE CATEGORY OF DEFENDANTS).

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5. DEATH SENTENCES: OF THE FIVE DEFENDANTS SENTENCED TO DEATH, TWO WERE CONVICTED OF CRIMINAL ACTS SUCH AS MURDER OR LOOTING, AND THREE WERE CONVICTED ON ESSENTIALLY POLITICAL CHARGES (ALTHOUGH OBSERVABLE CRIMINAL ACTS MAY HAVE BEEN COMMITTED). IN THE FIRST CATEGORY, PAE YONG-JU (M-R) DROVE A BUS INTO A GROUP OF SOLDIERS, KILLING FOUR, AND PAK NO-CHONG (M-R) LED THREE OTHERS IN A LOOTING SPREE DURING WHICH A HOUSEWIFE WAS CRITICALLY INJURED. PAE AND PAK WERE CONVICTED UNDER CHAPTER V. OF THE CRIMINAL CODE: "CRIMES INJURIOUS TO PUBLIC PEACE," AND CRIMINAL ACTS COMMITTED IN CONNECTION WITH THE RIOTS. THE THREE MEN IN THE SECOND CATEGORY WERE CONVICTED UNDER CHAPTER I. ARTICLES 87 THROUGH 91 INCLUSIVE OF THE CRIMINAL CODE ("CRIMES CONCERNING INSURRECTION"). THEY INCLUDED CHONG TONG-NYON (M-R), A REINSTATED STUDENT WHO FIGURED PROMINENTLY IN THE CASE AGAINST KIM DAE JUNG; KIM CHONG PAE (M-R), A STUDENT AT CHONNAM UNIVERSITY; AND PAK NAM-SON (M-R), A DRIVER.

6. ACCORDING TO THE BRIEFING TEAM CHONG WAS THE "RINGLEADER" OF THE KWANGJU UPRISING. HE WAS ALLEGEDLY SO INFATUATED WITH KIM DAE JUNG THAT HE GAVE MONEY TO STUDENTS FOR INSURRECTION FROM HIS OWN POCKET, SAYING IT CAME FROM KIM. CHONG MAY HAVE HOPED TO BE REWARDED BY A NATIONAL ASSEMBLY SEAT ONCE HIS MENTOR HAD SEIZED POWER. LATER HE RECEIVED 5 MILLION WON FROM KIM THROUGH KIM SANG-HYON (M-R). EVEN THOUGH CHONG AND SOME OF HIS HENCHMEN WERE ARRESTED MAY 17, THUS FORESTALLING EVEN GREATER VIOLENCE, HE WAS, SAID THE BRIEFER, CLEARLY A MAJOR CAUSE OF THE TROUBLE THAT FOLLOWED. CHONG FELT SO BADLY ABOUT FAILING KIM DAE JUNG THAT HE TRIED

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TO COMMIT SUICIDE IN JAIL BUT WAS PREVENTED FROM
DOING SO.

THE OTHER TWO DEFENDANTS FACING CAPITAL PUNISHMENT FOR POLITICAL OFFENSES, KIM AND PAK, WERE CONVICTED OF STOPPING A MOVEMENT FOR RECONCILIATION DURING THE INSURRECTION THAT HAD STARTED AMONG THE INSURGENTS AT PROVINCIAL HEADQUARTERS. EX-STUDENT KIM HAD ACTUALLY THREATENED WITH A GUN THOSE WANTING TO MAKE PEACE, AND HAD BEEN ONE OF THOSE WHO ORDERED THE REBELS TO FIRE ON GOVERNMENT TROOPS.

7. LIFE IMPRISONMENT: OF THE SEVEN DEFENDANTS SENTENCED TO LIFE, THREE WERE FOUND GUILTY OF CRIMINAL ACTS THEY HAD COMMITTED AS PART OF PAK MO-CHONG'S GANG OF LOOTERS. THE REMAINING FOUR WERE CONVICTED OF INCITING REBELLION (ARTICLE 87). FOREMOST AMONG THESE IS 65-YEAR-OLD LAWYER HONG NAM-SUN. THE BRIEFERS SAID HONG HAD BEEN THE KWANGJU REPRESENTATIVE OF KIM DAE JUNG'S "ASSOCIATION FOR CONSTITUTIONAL POLITICS" AND THE "DEMOCRATIC YOUTH COUNCIL." HONG

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WAS DESCRIBED AS CLOSELY CONNECTED TO KIM IN THE LATTER'S ALLEGED EFFORTS TO OVERTHROW THE GOVERNMENT, AND HAD A REPUTATION AS A TROUBLEMAKER.

8. LESSER SENTENCES: 2,522 PEOPLE WERE ARRESTED AS A RESULT OF THE KWANGJU RIOTS. OF THESE, 1,961 WERE RELEASED WITH A REPRIMAND. OF THE REMAINING 561, 198 WERE FREED AFTER SCREENING, AND 363 WERE INDICTED. OF THE 363, 163 WERE INDICTED FOR CRIMES UNDER ARTICLES 87-91 "CRIMES CONCERNING INSURRECTION," AND 200 INDICTED UNDER CHAPTER V. "CRIMES INJURIOUS TO PUBLIC PEACE." BY OCCUPATION, THE 363 ARE BROKEN

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DOWN INTO 79 STUDENTS; 11 PROFESSORS; 3 CIVIL SERVANTS; 171 LABORERS; 22 DRIVERS; 23 BLUE-COLLAR WORKERS; 13 EX-HOME LAND RESERVE; 2 LAWYERS; 2 PRIESTS; AND 37 OTHERS. OF THESE 363, 2 WERE FREED WITH SUSPENSION OF PRONOUNCEMENT OF SENTENCE (MUCH LIKE AN ACQUITTAL); 78 WERE FREED WITH SUSPENSION OF EXECUTION OF SENTENCE (IF THERE IS NO FURTHER OFFENSE WITHIN 2 YEARS, THE DEFENDANT'S RECORD IS WIPED CLEAN); AND 2 CASES ARE STILL PENDING (THESE DEFENDANTS WERE RELEASED ON THEIR OWN RECOGNIZANCE, BUT HAVE FLED). OF THE REMAINING 281, 88 WERE FREED OCTOBER 30 WHEN THE MARTIAL LAW COMMANDER COMMUTED THE SENTENCES. THE BRIEFING TEAM SAID THAT THE GOVERNMENT HAD TRIED TO BE AS LENIENT AS POSSIBLE DURING THE TRIALS, AND GAVE AS EVIDENCE THE FACT THAT ONLY 193 PEOPLE REMAIN IN JAIL OF THE 2,522 PEOPLE ARRESTED. IN ADDITION, MOST DEFENDANTS WERE GIVEN SENTENCES OF LESS THAN 5 YEARS' IMPRISONMENT.

9. EVIDENCE: THE BRIEFING TEAM SAID THAT IT HAD

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MATERIAL EVIDENCE IN THE FORM OF PHOTOS, PRINTED LEAFLETS AND UNDERGROUND NEWSPAPERS URGING REBELLION, AND DIARIES AND ARMS. THERE HAD BEEN DEPOSITIONS OR OTHER STATEMENTS BY WITNESSES INCLUDING TWO BEING HELD WITH KIM DAE JUNG--YI HA'EK-TON (M-R) AND KIM SANG-HYON.

10. APPEALS: ALMOST EVERYONE WILL APPEAL. APPEALS ARE AUTOMATIC IN THE CASE OF SENTENCES OF DEATH OR LIFE IMPRISONMENT. IN ADDITION, IT IS IMPOSSIBLE ON APPEAL TO IMPOSE A HEAVIER SENTENCE THAN THAT ORIGINALLY HANDED DOWN UNLESS THE PROSECUTION ALSO APPEALS (THE IMPRESSION IS THAT PROSECUTION APPEALS WILL BE FEW) AND TIME ELAPSED DURING THE APPEALS PROCESS COUNTS ON ANY SENTENCE. THEREFORE, THESE DEFENDANTS HAVE NOTHING TO LOSE BY APPEALING. IN PRINCIPLE, THE APPELLATE COURT MARTIAL SHOULD IN PRINCIPLE, THE APPELLATE COURT MARTIAL SHOULD HAVE PLACE IN SEOUL, BUT THERE ARE PROVISIONS FOR HOLDING SUCH SESSIONS IN KWANGJU.

11. SECRECY OF THE TRIALS: THE GOVERNMENT ASSERTS THAT THE TRIALS WERE COMPLETELY OPEN--TWO PASSES WERE GIVEN TO THE FAMILY OF EACH DEFENDANT. BECAUSE DEFENDANTS WERE TRIED IN GROUPS, IT WAS SOMETIMES IMPOSSIBLE TO ACCOMMODATE EVERYONE. BUT A SPECIAL BUILDING WAS CONSTRUCTED FOR THE PROCEEDINGS. THE PRESS WAS FREE TO ATTEND THE TRIAL (EMBOFF WAS GIVEN TOUR OF COURTROOM AND SAW WHAT THE TEAM SAID WAS A PRESS TABLE). THE BRIEFING TEAM SAID ITS IMPRESSION WAS THAT THE PRESS ITSELF HAD DECIDED NOT TO PRINT

STORIES BECAUSE THEY WOULD STIR UP BITTER MEMORIES.
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--THREE NEWSPAPER EXECUTIVES SPOKEN TO IN A GROUP SAID THAT THEIR REPORTERS HAD SOMETIMES GONE TO TRIAL SESSIONS, BUT HAD NOT SUBMITTED ANY STORIES TO THE CENSOR.

12. ADEQUACY OF LEGAL COUNSEL: THE BRIEFERS CLAIMED THAT 71 LAWYERS REPRESENTED THE DEFENDANTS. FORTY-EIGHT, INCLUDING TWO FROM SEOUL, WERE HIRED INDIVIDUALLY, WHILE TWENTY-THREE WERE GOVERNMENT APPOINTED. TWO
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LAWYERS REFUSED TO SEE EMBOFF, BUT SAID ON THE TELEPHONE THAT THE GOVERNMENT'S ASSERTION WAS CORRECT.
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ON THE OTHER HAND, THERE ARE ONLY 46 LAWYERS IN CHOLLA NAMDO, OF WHOM 28 ARE IN KWANGJU.

13. EMBASSY'S ASSESSMENT OF INTERACTION OF THIS TRIAL WITH KIM DAE JUNG'S (PARA 5 REFTEL) WILL FOLLOW SEPTEL. GLEYSTEEN
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